

Red Lines, Gray Lists

Israel's dual-use policy and the Gaza Reconstruction Mechanism

Introduction

For years, Israel has restricted the entry of construction materials, raw materials, chemicals, equipment, and spare parts into Gaza that are needed for industry, the health sector, and civilian infrastructure. Israel considers thousands of items to be “dual-use,” that is, civilian goods that could also be used for a military purpose, even though these items are not defined as dual-use according to international standards. Israel subjects items it defines as dual-use to additional controls, claiming that they could be used by militant groups in the Strip, for example for building tunnels, fortifications, or for creating armaments.

From the time Israel tightened the closure on Gaza in 2007, and until the Mavi Marmara flotilla incident of 2010, Israel banned entry of [countless goods](#) to Gaza, including basic products such as coriander, paper, toys, and chocolate. In fact, other than a narrow list of items permitted for entry, which was never published, everything was banned. In 2012, following a lengthy legal campaign by Gisha, Israel's Ministry of Defense finally revealed the documents entitled “[Food Consumption in the Gaza Strip – Red Lines](#)” which included information about the restrictions Israel placed on entry of food into Gaza between 2007 and 2010.

Though the “Red Lines” policy is no longer in place, Israel's list of dual-use goods, the vague, broad categories it contains, [the lack of transparency](#) surrounding it, and the labyrinthine process for coordinating entry of items continue to impact [countless aspects](#) of everyday life in the Strip.

During the May 2021 military operation on Gaza, bombardments by the Israeli military caused widespread destruction and damage to homes, businesses, hospitals, schools, roads and other civilian infrastructure in the Strip, estimated at a value of [290 to 380 million USD](#). More than [60,000 housing units](#) were damaged and more than 2,000 were severely damaged or totally destroyed. Alongside

Israel's repeated bombardments of Gaza, the restrictions it imposes on access to goods compound the harm done to residents of the Strip.

Israel is currently [allowing](#) in basic construction materials (cement, steel rebar, and gravel) relatively freely via Kerem Shalom, the only commercial crossing between Israel and Gaza after [blocking](#) their entry for three months following the May 2021 offensive. Construction materials have also been entering Gaza via Egypt since May. Egypt sent in heavy machinery and equipment, which is typically blocked from entering via Israel and Egypt, to clear rubble. Given the three-month block on entry of construction materials by Israel, questions about funding for construction, as well as ongoing restrictions enforced by Israel, rubble was cleared quickly but reconstruction has been slow to start.

Israel's restrictions on the entry of dual-use goods to Gaza have stunted construction and reconstruction, as well as economic development, in violation of Gaza residents' fundamental rights. In this report, we answer frequently asked questions on Israel's dual-use policy and about the Gaza Reconstruction Mechanism (the GRM). In the conclusion, we list key findings of our research and note issues that must be addressed to facilitate greater access to so-called dual-use goods.

1. What is Israel's “dual-use list”?

Israel restricts the entry of thousands of items both to the West Bank and Gaza through the [Defense Export Control Law of 2007](#) and the Defense Export Control Order ([Hebrew](#), Gisha's unofficial translation [here](#)). The order features two lists of items designated as “dual-use,” one that is common to the West Bank and Gaza and one, containing additional items and categories of goods, for Gaza only. Israel's dual-use lists go far beyond the lists agreed upon in the [Wassenaar Arrangement](#), a voluntary export regime for controlling dual-use goods, in which 42 countries, including the United States and European Union member states, participate. Israel's list for Gaza contains items that are critical for construction like steel pipes over a certain diameter, as well as cement mixers, pumps, and any type of heavy machinery. Beyond construction equipment, the dual-use list includes thousands of items needed for everyday civilian uses, like fertilizers for [agriculture](#) or ingredients for [cosmetic products](#).

The official dual-use list cannot be changed without a legislative process involving the Minister of Defense, however Israeli security officials can ‘add’ or ‘remove’ items ad hoc, citing a decision titled “Decision B/44” of the Ministerial Committee on Security. There is little transparency about the list itself (which was once available in translation to English and Arabic on the Coordinator of Government Activities in the Territories' (COGAT) website but is no longer there), and also about Decision B/44 and the decision-making process it confers.

For example, some items on this list, which ostensibly require a permit for entry, are effectively banned through the authority granted under Decision B/44. In June 2020, COGAT, the unit of the Ministry of the Defense responsible for civilian needs in the Palestinian territory, issued a statement noting that [steel pipes](#) (translated here as iron) over 1.5 inches in diameter need a permit to enter. Beginning in January 2021, contacts in Gaza noted that these pipes were being barred from entry almost entirely. Similarly, other items on the list that in theory should be allowed to enter with a permit in practice never – or almost never – receive permission, such as epoxy and fiberglass, [vital for industry](#), manufacturing, and other sectors.

Conversely, since 2015 and 2020, gravel and one type of cement, respectively, are no longer treated as dual-use and enter Gaza relatively freely via Kerem Shalom (with the exception of the months after the latest operation). In September 2021, steel rebar was similarly allowed entry via regular coordination, as opposed to special coordination needed for dual-use items. While this allows cement, gravel and steel rebar to enter Gaza more easily than in the past, Israel's inconsistent, non-transparent decision-making process adds to the confusion surrounding construction and reconstruction in Gaza.

Another important issue is that the list contains not just individual items but also broad categories, such as “communications equipment,” which are vague and encompass potentially hundreds if not thousands of items and their component parts. The vague nature of the categories allows for wide discretion on the part of the authorities to block items that are vital for civilian needs.

2. How do “dual-use” goods enter Gaza?

Dual-use items enter Gaza via five channels. Via Israel: 1) Israel’s regular dual-use track 2) the Gaza Reconstruction Mechanism (GRM) and 3) bilateral arrangements between Israel and third parties (Palestinian institutions or international organizations). Via Egypt: 4) Salah a-Din Gate, a small goods entry point and 5) A small number of reportedly [still operational](#) tunnels that run between Gaza and Egypt.

Israel controls and monitors the entry and exit of all goods to and from the Strip at the Kerem Shalom crossing (see [Gisha’s report on the crossing](#)). All goods that enter Gaza via Kerem Shalom require prior coordination from the Israeli military, but goods that Israel considers to be dual-use are subject to much stricter controls and require an application and approval process, based on tracks 1-3 noted above.

3. What are the obligations of Israel and other parties in relation to allowing goods into Gaza?

As a result of Israel's enduring control over many aspects of life in Gaza, including via an [air, land, and sea closure](#), it retains obligations under the [law of occupation](#). International law obliges the occupying power to facilitate the rapid and unimpeded passage of humanitarian aid for civilians, and not to arbitrarily block it. Further still, the occupying power must facilitate normal life for civilians living under its control. That means allowing in materials needed for reconstruction, as well as materials needed for a myriad of other civilian uses, for instance, fiberglass needed to [mend fishing boats](#) and chemicals needed to [purify water supply](#) on an ongoing basis. Measures implemented to counter security threats must be specific and proportionate to the potential threat posed, and balanced against Israel's obligations to civilians living under its control in Gaza. The restrictions Israel imposes on what it calls dual-use goods do not align with those obligations.

The Palestinian authorities have an obligation to protect the rights of Gaza residents in the spheres under their control, which are albeit limited. For instance, the Palestinian Authority, the point of contact for the international community and the administrator of the GRM from the Palestinian side, should do all in its power to ensure delivery of aid and goods to Gaza, and the de facto Hamas government in Gaza must do the same. Both should do their utmost to coordinate where necessary and not obstruct reconstruction. Given the Hamas authorities' control over policing inside the Strip, they should prevent acts of theft or diversion of goods, and otherwise safeguard the population.

Egypt, Gaza's other neighbor, does not owe obligations to Palestinians under the law of occupation, however, given Israel's closure of Gaza and Egypt's border with the Strip, it does bear some [obligations](#), including to allow humanitarian access.

4. Which goods enter from Egypt and why don't more enter?

In February 2018, Egypt opened Salah a-Din Gate, on the Gaza-Egypt border near Rafah Crossing. The gate is managed by private companies on either side, under the supervision of the Egyptian military and Hamas authorities in the Strip. It appears that Israel has some influence on what the Egyptian authorities allow to be transferred at the gate but goods on Israel's dual-use list do enter to some extent, mainly cement and some electronic equipment.

The gate is used to transfer goods in one direction only, into Gaza (though some [scrap metal](#) has exited recently), and on a limited scale. The volume and variety of goods entering via Salah a-Din has increased over the years, including construction materials. In the first four months of 2021, around 40 percent of the total amount of cement entered Gaza via Salah a-Din gate compared to around 17

percent in the same period of 2019. However, the volume of goods coming in from Egypt is still much less than what enters via [Kerem Shalom](#).

Egypt's [position](#) until now has been that it is willing to allow humanitarian access but not operate Rafah Crossing regularly, that is, outside the parameters of the [Agreement on Movement and Access](#), signed between Israel and the PA in 2005, and suspended after the Hamas takeover of Gaza in 2007. Egypt operates Rafah and now Salah a-Din on an *ad-hoc* basis, until the agreement can enter into force again. The operation of these crossings, even at full capacity, is not enough to meet the needs of Gaza residents living under closure by Israel and does not relieve Israel of its responsibilities to Gaza as an occupying power. Salah a-Din Gate is not currently equipped to function as a full commercial crossing; it is not used for regular commercial trade other than between the companies that operate it, nor by international organizations. Most importantly, Salah a-Din does not connect to Gaza's main commercial markets, which are in the West Bank and Israel.

5. What is the “regular dual-use” track via Israel?

We refer to the “regular dual-use track” to indicate the method used by Palestinian traders and private contractors for bringing in dual-use items via Israel outside of the Gaza Reconstruction Mechanism (more about the GRM in questions 7-10). According to Israel's [directive on the entry of goods to Gaza](#), the decision to approve applications for entry of dual-use items is based on considerations related to the type of item requested, the identity of the applicant and the end-user, and the item's intended use, all of which must be listed in the application. Different submission rules apply depending on the items requested, and, similarly, different officials provide the approval. The process is not meant to exceed 45 days from the date of application, but in reality can take months or even years (see Gisha's access toolkit [Trading in the Dark](#) for more detail on the application process). Traders and contractors order items on behalf of manufacturers or international and local organizations carrying out projects in Gaza. Prior to the creation of the GRM, this was the only method by which the private sector could bring in goods considered dual-use.

6. What are the other, bilateral mechanisms or tracks between Israel and international organizations?

Some Palestinian and international organizations such as the Coastal Municipalities Water Utility (CMWU), the International Committee of the Red Cross (ICRC), United Nations Relief and Works Agency for Palestinian Refugees (UNRWA) and United Nations Development Programme (UNDP) continue to coordinate directly with COGAT for their projects. Rather than being subject to the provisions of the GRM (see question 7), these bilateral tracks are based on agreements reached between the parties for

monitoring items and timelines, some of which involve more stringent monitoring than the GRM, leaving little recourse for oversight by independent third parties.

7. What is the Gaza Reconstruction Mechanism and how does it work?

The Gaza Reconstruction Mechanism (GRM) was the result of an [agreement](#) brokered by the United Nations (UN) between Israel and the Palestinian Authority, following the massive devastation caused by bombardments by the Israeli military in the 2014 offensive.

Israel insisted on the creation of the GRM, designated as a temporary mechanism, as a condition for allowing in key construction materials for civilian reconstruction. The mechanism was ostensibly designed to allow in materials under UN supervision, while preventing diversion. Prior to the mechanism, the private sector relied on the regular track (see 5), but in practice, construction materials were effectively barred from entry except during certain periods when they were allowed in for international organizations.

The GRM was designed with a narrow scope, specifically for the private sector and international organizations to coordinate the large-scale entry of gravel, cement, and steel rebar, as well as other dual-use items needed for reconstruction. However, over time, the mechanism became the primary means by which dual-use materials entered Gaza (in terms of volume), covering not only reconstruction but also construction and any project with a clear start and end date. As noted in question 1), those three basic construction materials (sometimes referred to as “ABC” for aggregate, bars, cement) are not being treated as dual-use items, and therefore are no longer monitored via the GRM, however thousands of other items still are, which continues to hinder construction in Gaza.

The GRM is still used for projects only, not ongoing needs for dual-use items, for example, raw materials continually needed by factories, or spare parts needed for hospital equipment. These items would be coordinated under the regular dual-use track or via bilateral coordination, but are often not allowed in at all.

How does the GRM work?

The GRM was designed so that UN staff can monitor every step of the construction process, theoretically ensuring that materials reach their intended end-user. The GRM consists of three monitoring processes: residential, vendor, and large-scale projects. Across all three streams, requests are first submitted to the PA Ministry of Civil Affairs (MOCA), which approves the projects, vets vendors

and contractors, and then submits the request to their counterparts on the Israeli side, the Coordination and Liaison Administration (CLA), COGAT's operative unit for Gaza.

Following the 2014 war, the UN conducted wide-scale assessments of damage and, based on these, would issue vouchers to individuals for purchase of supplies to repair homes. Today, given that the widely used type of cement, steel rebar, and gravel are no longer entering under the GRM, individuals are less likely to be involved in the GRM process.

Every vendor selling dual-use materials or contractor undertaking projects which require dual-use materials needs to apply for inclusion in the GRM system (both to the PA and Israel). They must meet several technical requirements at the time of application and beyond, for example their ability to securely store and monitor materials at a designated location.

When it comes to large projects, contractors need to provide precise plans, detailing how much is needed and how materials will be used. Both MOCA and the CLA review building plans and locations, and Israel reviews requests for each and every item needed (sometimes thousands of items per project). Israel's [scrutiny process](#) involves various government agencies and specific ministries, who must approve specific categories of items, at various stages of the project. At each stage, approval is given for the materials to enter for that specific phase only.

Approved materials enter Gaza via Kerem Shalom. International and local UN inspectors conduct "spot-check" on-site visits according to monitoring schedules determined under the mechanism. They note any diversions or irregularities as "observations" in the GRM database, visible to the PA and Israel. If UN monitors check the issue again and are satisfied, they can note that the issue was resolved from their perspective. Israel can [suspend contractors](#) and vendors from the GRM based on observations noted in the database, whether noted as resolved or not. In theory, the PA can too, but it has never done so.

Israel has suspended hundreds of people and companies from the GRM since its inception, some of whom were eventually reinstated. There is little transparency about the grounds on which an individual can be suspended from the system and/or how a person can get themselves reinstated. Individuals can submit an appeal of their suspension to MOCA, which forwards it to the CLA. If this does not work, the individual can petition the Israeli courts through Israeli lawyers, which is a lengthy and expensive process. Gisha is aware, from [some of its cases](#), of people who have been removed on a whim, based on misunderstandings, to devastating economic effect.

8. Is the GRM effective?

The answer to the question depends on one's perspective about the necessity and legitimacy of such extensive monitoring of such a broad range of items, most of which are not defined as dual-use in any other part of the world. Despite Israel's ongoing, extensive control over the Strip, it disavows responsibility for Gaza and the well-being of its residents.

[Proponents](#) of the GRM point to the fact that it has facilitated the entry of more than [three million tons](#) of construction materials that may not have otherwise entered Gaza, given Israel's sweeping restrictions on entrance of items prior to the advent of the mechanism. Of the 11,000 fully destroyed homes during the 2014 military operation, some 10,000 have been rebuilt, in addition to repairs made to more than 100,000 homes. Further, some large-scale infrastructure projects have been successfully completed, such as desalination and wastewater treatment plants.

Critics of the mechanism note that while the mechanism was seemingly created through an agreement between the PA and Israel, it can be seen as an expression of their vastly unequal power dynamic. Israel is the ultimate decision-maker. Nothing comes in unless Israel permits it to, and only on Israel's timeline.

Further still, as in other areas of its control over Gaza, Israel frequently exploits the mechanism and its control over the entry of goods as a lever of pressure, coercion, and punishment. For example, the mechanism gives Israel access to vast amounts of information about individuals and the locations of their residences and businesses. Israel, and to a lesser extent the PA, determines who can build, where, and how quickly. Israel repeatedly uses its control over the entrance of materials to pressure individuals and organizations, according to Gisha's research.

Israel's dual-use policy, and the GRM, which is one mechanism of that policy, is based upon an excessively broad definition of threat, and preferences Israel's ostensive security interests, without giving due consideration to civilian needs.

The items Israel defines as dual-use are vital for industry, manufacturing, the health sector, and critical [civilian infrastructure](#). Lack of access to dual-use items has serious humanitarian implications, preventing, for instance, the timely repair, maintenance and development of [water and sanitation infrastructure](#), hospitals, schools, and homes. The restrictions also constrain long-term economic development and the functioning of the private sector. UNCTAD [reported](#) that relaxing the dual-use list would allow GDP to expand by 11 per cent in Gaza by 2025, and by 6 per cent in the West Bank.

Israel's dual-use restrictions, institutionalized in the GRM (as well as in other mechanisms), impede construction rather than facilitate it and impose [additional costs](#) on the local population and on

international donors, where resources are limited. A prime example is the North Gaza Emergency Sewage Treatment project, which, according to the [World Bank](#), was delayed for four years at an estimated additional cost of 1.6 million USD. The Israeli authorities deny, delay, and sometimes ignore requests within the GRM or the regular dual-use track for items needed to complete construction. The lack of predictability generates higher costs for construction and incentivizes a black market. Also, many contractors told Gisha they prefer to not to use the GRM at all, if they can avoid it, preferring to buy what they can where they can. Some international actors prefer to use a more direct channel to the Israeli authorities, believing this to be more effective (see 6).

9. Is the GRM changing?

The GRM is funded by international donors, now Germany, the Netherlands, Norway, and Australia, and until recently, the UK, which stopped its funding as part of aid budget cuts but remains engaged as a formal member of the GRM board. The UN and donor countries have been discussing reform to the GRM for several years. Since the May 2021 escalation, those discussions have been ramped up, also due to Israel's insistence on 'greater controls' over what enters Gaza. Given that the main items needed for construction – regular cement, steel rebar, and gravel – no longer require special coordination, there is discussion about the next phase of the GRM. This could involve expanding the mandate of the GRM to track dual-use items beyond just projects with a start and end date. The intention would be to facilitate entry and monitoring of dual-use items that rarely enter Gaza, for example fiberglass needed to repair fishing boats. Discussions are also ongoing on how the mechanism can be made more transparent, efficient, and the entry of material could be made more predictable.

10. Are the dual-use restrictions necessary to protect Israel's security?

Israel is obliged to strike a balance between civilian needs in Gaza and measures it takes to protect the security of Israeli citizens. The need to deal with complex security challenges does not justify the 'zero-risk' approach inherent in sweeping restrictions on entry of goods, which fail to strike a balance between civilian needs on both sides of the fence. Israel has at its disposal advanced technologies designed to protect its citizens against security threats potentially posed by the entry of such materials. In light of this, severe restrictions on entrance of essential items are disproportionate to the threat they ostensibly pose and also are wielded in a manner that violates the basic rights of Gaza residents.

In no place in the world do the denial of basic rights and resulting dire humanitarian conditions create conditions conducive to stability or security. Many in the Israeli security establishment have [said this](#), though they continue to implement policy that reflects the opposite.

Further, Israel's restrictions on movement and access to Gaza since 2007 cannot be divorced from its political and demographic objectives (see [Area G: From Separation to Annexation](#)). Over the years, Israel has continued to expand and contract access, not in response to specific, defined security threats, but in order to inflict suffering on civilians as a tool of political pressure, constituting, inter alia, illegal collective punishment. One example is how the fishing zone is [regularly closed or reduced](#), among other punitive measures, 'in response' to escalations, bearing no relationship to any security threat.

Conclusion

Gisha's position is that Israel must facilitate timely, consistent and dependable entry of goods to Gaza and otherwise do the maximum in its power to facilitate normal life and protect the human rights of Palestinians living under occupation.

Israel's control over and restrictions on movement of goods, particularly goods it considers to be dual-use, are extensive and sweeping. The system of controlling dual-use goods, including via the GRM and other mechanisms, is complex, bureaucratic, unnecessary in many cases, and lacking in transparency, [creating delays](#) and incurring additional costs for users. The chronic lack of dual-use items on the local market impedes construction, reconstruction, the functioning of the healthcare system and critical civilian infrastructure, as well as stifling Gaza's economy and industries.

The GRM was designed with a tacit acceptance of Israel's broad and sweeping security demands, at the expense of civilian needs in Gaza. Israel must strike a balance between its obligations towards Gaza residents, and its obligation to protect the security of Israeli citizens. It is our view that Israel's dual-use policy, including how it is implemented through the GRM, does not strike such a balance and as such represents a severe violation of Israel's obligations under international law.

Barring a complete overhaul of the dual-use system, bringing it in line with [international standards](#), we note the following, specific issues with the current system that must be addressed:

The extensive nature of the dual-use list

- The majority of items on the dual-use list, particularly the Gaza-specific section, are vital for civilian needs and their inclusion on the list is unjustified and reasonable, going far beyond any

reasonable interpretation of agreed international standards, as conceived under the Wassenaar Arrangement.

- Excessive controls on everyday items such as wood paints and thinners, spare parts for machinery, communication items such as regular cell phones, computers, and tablets are disproportionate to the threat they pose, and thus needlessly stifle, obstruct, and impede humanitarian operations, commerce, and normal life in Gaza.

Long delays and high costs

- There are long delays in receiving responses to requests, and eventually dual-use items, both under the GRM and the regular dual-use track. Under [Israeli law](#), the authorities must respond to regular dual-use requests as soon as possible and not longer than 45 days from the date the request was received. According to conversations with numerous individuals and organizations in Gaza, it can take months, and even sometimes years, to get a response to a request, via both systems.
- Bureaucracy and additional requirements for participation in the GRM, such as CCTV cameras, storage warehouses, and fencing, which are in many cases unreasonable, incur additional costs for end-users and donors, leading to price rises and incentivizing a black market.

Lack of accountability for damages

- There is no compensation mechanism for damages incurred due to unreasonable delays in approving requests and negligent handling of them, even when this leads to severe financial losses and has an impact on humanitarian and other projects.
- Israel has very broad powers for the seizure and confiscation of goods, based on vague legal provisions, which undermines the transfer of goods more broadly. In many cases, the decision to seize a commodity stems from a misunderstanding or reliance on false pretenses, and getting a response to an inquest against the seizure can take many months. These far-reaching powers lead to a disproportionate violation of property rights, and undermine the reputation of traders and their business relationships.
- Israel often responds to non-compliance with requirements in an extreme manner, for example, the failure of a CCTV camera resulting from a power outage could lead to suspension from the GRM.

Lack of transparency and accessibility

- Lack of transparency by the Israeli authorities about what is considered dual-use, or on the application process for entering items. The dual-use law and associated regulations are not published in Arabic or English.
- Lack of updated and clear information published about the GRM by the UN, the way it works, and the ongoing reform process on [the official GRM website](#).
- Residents report that the lack of publicly available information and a general sense of the impossibility of reliable access to dual-use goods leads to a chilling effect on entrepreneurship and innovation.
- Lack of an effective, accessible complaints mechanism and appeals process for when a person is barred from the GRM system.

Lack of compliance with international law

- As an occupying power, Israel is obligated to preserve normal life in Gaza as far as possible. Allowing unimpeded access for humanitarian aid is the most minimal of its duties, but it has positive obligations to facilitate economic activity and respect the human rights of people living under its control, particularly given the length and nature of the occupation. Instead, it routinely violates its duties, blocking passage of goods, including humanitarian aid as well as other items and products essential for the civilian population.